

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LENNOX FREEMAN, individually and on behalf of all
others similarly situated,

Plaintiff,

NOTICE OF MOTION

17-CV-05162 (RJD)(RER)

-against-

RIVER MANOR CORP. d/b/a ATRIUM CENTER FOR
REHABILITATION AND NURSING; RIVER MANOR
CARE CENTER, INC.; EXCELSIOR CARE GROUP,
LLC; RIVER MANOR ACQUISITION I, LLC; RIVER
MANOR ACQUISITION II, LLC; CONSTANCE
LEIFER, individually; and JOEL LEIFER, individually,

Defendants.
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PLEASE TAKE NOTICE that upon the Declaration of Christopher P. Hampton, Esq. dated February 15, 2018 and the exhibits annexed thereto, the accompanying Defendants' Memorandum of Law in Support of Their Motion for Summary Judgment dated February 15, 2018, and all papers and proceedings heretofore had herein, Defendants will move this Court, before the Honorable Raymond J. Dearie, United States District Court Judge, Eastern District of New York, at the Courthouse thereof, United States Courthouse for the Eastern District of New York, located at 225 Cadman Plaza East, Brooklyn, NY 11201, for an order granting summary judgment, pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing the Complaint, on the grounds that: (a) Plaintiff Lennox Freeman's Fair Labor Standards Act overtime claim, New York Labor Law overtime claim, and New York Labor Law "agreed upon wages" claim are preempted pursuant to Section 301 of the Labor Management Relations Act, and/or the National Labor Relations Act; and (b) Plaintiff Freeman's remaining New York Labor Law claims must be dismissed for lack of (supplemental) jurisdiction, and

granting Defendants costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, in accordance with the Individual Motion Practices of Judge Raymond J. Dearie (the "Individual Motion Practices") Rule III(B), and the Electronic Order of this Court dated January 17, 2018 (Docket Entry 18), the agreed-upon and So Ordered briefing schedule in connection with Defendants' motion is as follows:

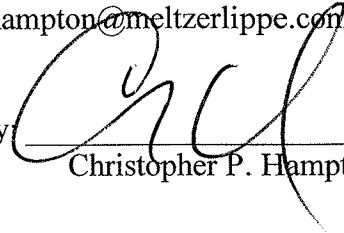
- Plaintiffs' Opposition is due by or before March 19, 2018; and
- Defendants' Reply is due by or before April 9, 2018.

PLEASE TAKE FURTHER NOTICE that, in accordance with the Individual Motion Practices Rule III(E), oral arguments on Defendants' motion shall be held on a date and time to be designated by the Court.

Dated: Mineola, New York
February 15, 2018

**MELTZER, LIPPE, GOLDSTEIN &
BREITSTONE, LLP**

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By 
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